

Scottish Hospitals Inquiry

Opening Note by Counsel to the Inquiry prior to the Glasgow IV, Part 1 Hearing: 13 to 30 May 2025

Introduction

1. This opening statement is prepared to assist the Chair and CPs prepare for the Glasgow IV Part 1 hearing that will run from 13th to 30th May 2025. It sets out the scope of the hearing, and themes and topics which it is hoped will be covered by the evidence. No Closing Statements will be produced at the end of this hearing.

The Scope of the Glasgow IV Part1 hearing

2. As explained in Direction 10, the primary purpose of the Glasgow IV, Part 1 hearing will be to hear the evidence of the members of the NHS GGC Project Team and the contractors and consultants engaged in the procurement, design and construction of the QEUH/RHC.
3. It is recognised that the whole QEUH/RHC hospital project was one of the largest health procurement projects in Scotland and that the Inquiry is looking at a number of very small, albeit significant, parts of that overall task.
4. To a large degree this will be the first time that Terms of Reference 2,3A-C,5 and 6 have formed the primary focus of a hearing in respect to QEUH/RHC. The opportunity will also be taken to hear the perspectives of the Glasgow IV, Part 1 witnesses on Term of Reference 1 and on the “function or purpose” for which the water and ventilation systems of the QEUH/RHC were intended.
5. It is proposed to deal with Term of Reference 10 largely by reference to written material including the report of Mr Bennett on site selection (Bundle 39, Document 1 and associated documents in Bundle 28). The question of whether the impact of the smell from Shieldhall was part of the reason that natural ventilation was replaced by mechanical ventilation and the related impact of that

decision on the Agreed Ventilation Derogation will be explored with NHS GGC Project Team members.

6. The Inquiry Team has already identified Potentially Deficient Features of the Water and Ventilation Systems and set them out in PPPs 11, 12 and 14. To those lists must be added the pre-filling of the water system as described in paragraphs 7-12 of Chapter 5 of the Closing Statement of Counsel to the Inquiry after Glasgow III. The Inquiry Team has also identified sixteen Potentially Relevant Features of the Building Contract (PPP 13, Bundle 26, Document 3, Page 174).
7. The Inquiry has no power to determine civil liability. Its concern with the Building Contract is limited to what is necessary in order to address the Inquiry's Remit and Terms of Reference. That will involve asking witnesses why certain decisions were made or not made and why certain events took place. Those questions are asked in order to address the Remit and Terms of Reference and not to reach a view on contractual compliance.
8. Within the Building Contract 'Defect' is a defined term. The definition of a 'Defect' in that contract is different from Potentially Deficient Features of the Water and Ventilation Systems or Potentially Relevant Features of the Building Contract, as these expressions are used in the PPPs, or the meaning of "defective" or "defect" as these expressions are used in the Remit and Terms of Reference. The question of whether any feature of the water system (including drainage) or the ventilation system of the hospital is in fact deficient in the sense that the feature (a) did or does not conform to relevant statutory regulation and other applicable recommendations, guidance, and good practice; or (b) did or does not achieve the outcome or was capable of the function for which it was intended, is the question that will fall to be determined in the final report.
9. The Potentially Deficient Features of the Water and Ventilation Systems that are likely to be the particular focus of this hearing are:

- What we have called the “Agreed Ventilation Derogation”.¹
- The ventilation system installed in Ward 2A RHC.²
- The move of the Adult BMT service into Ward 4B QEUH and the ventilation systems initially fitted in that ward.³
- The ventilation system installed in Ward 4C QEUH.⁴
- The ventilation system fitted to the remaining Isolation Rooms at Handover.⁵
- The ventilation system fitted to the Infectious Diseases wards on the 5th floor of QEUH.⁶
- The decision to fit EPDM hoses in face of guidance on the topic.⁷
- The decision to deploy the Horne Optitherm Taps.⁸
- The decision to prefill the water system in 2014.⁹
- An apparent issue over open pipe ends during construction.¹⁰

¹ The “Agreed Ventilation Derogation” is described by the Inquiry Team in PPP 13, paras. 1.4 (PRF1 & PRF7) and 3.24 (Bundle 26, Document 3, Pages 174 and 251). The state of the ventilation fitted to general ward is described in PPP 12 paras. 6.3-6.15 (Bundle 26, Document 2, Pages 139-141)

² As described for the ward as a whole in PPP 12, paras. 6.16 to 6.46 (Bundle 26, Document 2, Pages 141-145) and for the isolation rooms in PPP 14, Section 10 (Bundle 26, Document 4, Pages 320-347)

³ As described for the ward as a whole in PPP 12, paras. 6.71 to 6.108 (Bundle 26, Document 2, Pages 149-156) and for the isolation rooms in PPP 14, paras. 7.1 to 7.21 (Bundle 26, Document 4, Pages 294-299)

⁴ As described in PPP 12, paras. 6.109 to 6.133 (Bundle 26, Document 2, Pages 156-160)

⁵ As described in PPP 14 for: Adult ICU, HDU and Renal Ward paras. 7.22-7.33 and for PICU (Ch. 11), CDU (Ch. 12) Paediatric Cardiology (Ch. 13), ARU (Ch. 14), Level 3 Isolation Rooms (Ch. 15) (Bundle 26, Document 4, Pages 300-303 and 348-373)

⁶ As described for isolation rooms used for Infectious Diseases patients in PPP 14, paras. 7.22, 7.34-7.46 (Bundle 26, Document 4, Pages 299,303-306) and as a general ward in PPP 12 paras. 6.3-6.15 (Bundle 26, Document 2, Pages 139-141)

⁷ As described in PPP 11 Chapters 18 and 19

⁸ Described within PPP 11 at Ch. 16 (Bundle 26, Document 1, Pages 73-83) and discussed within the Closing Statement for CTI following Glasgow 3 hearing, Chapter 5, Paras. 13-26 (Pages 198-203), Para. 362.12 (Page 309), Chapter 6.1 Para. 15 (Page 527), Chapter 7 Paras. 1751-179 (Page 573)

⁹ As discussed within the Closing Statement for CTI following Glasgow 3 hearing, Chapter 5, Paras. 7-12 (Pages 196-198) Chapter 6.1 Para 16 (Page 528), Chapter 7 Paras. 90-97 (Pages 533-556)

¹⁰ March 2011, Bundle 15, Document 23, Page 837; April 2011, Bundle 33, Document 6, Page 101; May 2012, Bundle 33, Document 19, Page 363; July 2012, Bundle 33, Document 20, Page 415; December 2012, Bundle 33, Document 25, Page 545; January 2013, Bundle 33, Document 26, Page 581; February 2013, Bundle 33, Document 27, Page 626-627; March 2013, Bundle 33, Document 28, Page 670; July 2013, Bundle 33, Document 31, Page 784

- The installation of flexible hoses lined with ethylene propylene diene monomer (EPDM)

10. In the hearing the Inquiry will aim to understand how, in respect of each of these they came about, who proposed the particular feature and why, what understanding of that feature was had by the NHS GGC Project Team and IPC and how and whether any deviations from guidance – particularly SHTMs -was considered on their merits and by whom.

11. We will also aim to understand:

- What witnesses know about the selection of the site at the Southern General Hospital and how it then impacted on ventilation choices on account of the odour from the Shieldhall waste treatment site.
- What the witnesses know about the 2008 decision to change the procurement strategy from a PFI to a more conventional funding approach for a design and build and its impact on the resource eventually allocated to the Estates function at the new hospital from handover which appears to have impacted on events around the DMA Canyon L8 Risk Assessment and water safety.
- Why was the Maximum Temperature Variant removed in June 2009? What impact did that decision have on the design and capacity of the proposed ventilation system solution and to what extent did an attempt to achieve a maximum temperature two degrees below the target set in SHTM 03-01 impact on what became the “Agreed Ventilation Derogation”?
- How the “Agreed Ventilation Derogation” was agreed by NHS GGC? Who in NHS GGC knew about this decision? What took place at the meeting at Project Team’s Hillington office on or around 16 December 2009? What assessment of risk and impact on IPC took place before that change was agreed?
- Was the “Agreed Ventilation Derogation” and/or the consequential incomplete compliance with SHTM 03-01 reported to Scottish Government as part of the FBC process?

- Whose job was it to ensure that NHS GGC thought through and considered the consequences of deviations from SHTMs and other applicable regulations, guidance and good practice? What role did the contractors and consultants have in that task?
- Whose job was it to ensure contract compliance – and how did they do that? How did those people know what was required to be built by the contract? Who held the necessary knowledge of the M&E Clarification Log and the “Agreed Ventilation Derogation”?
- How was whether the hospital built by Multiplex was what was agreed to be built; checked, certified and/or validated by whom and when?
- To what extent, if any, were IPC involved in the design and construction phases of the project? Who was responsible for ensuring that infection control input was reflected in these phases, particularly for the Water and Ventilation Systems?
- What role did NHS GGC’s Project Team have in the decision to begin patient migration to the QEUH in 2015 and what was the NHS GGC’s Project Team and Multiplex response to the return of Adult BMT from Ward 4B to the Beatson, and the finding of high particle counts and physical defective features such as missing HEPA filters and suspended ceilings in Ward 2A.
- What knowledge did the NHS GGC’s Project Team have about the 2015 DMA Canyon pre-occupation L8 water risk assessment; in particular, the instruction, awareness, receipt and distribution thereof and why it was not done pre-occupation.
- The reason for and the impact of the decision by NHS GGC not to appoint an Independent Commissioning Engineer.
- The apparent complete failure by NHS GGC’s Project Team to carry out validation of the ventilation system before handover or occupation of the QEUH/RHC.

- The issue by NHS GGC's Project Team/Consultants of the Stage 3 Defects Certificate on 26 January 2017: despite the apparent continued known existence of a number of Potentially Deficient Features and the 2015 DMA Canyon L8 Risk Assessment.
- What was reported to and the subject of decisions ultimately made by members of the NHS GGC Board either at the board itself or one of its subcommittees or groups.
- What was reported to Scottish Government about the Potentially Deficient Features and the Potentially Relevant Features of the Building Contract?
- We are also likely to touch on issues such as the decision to remove carbon filters, the significance of BREEAM and the carbon target and consideration of the Estates budget before and after handover.
- How was it that so many senior managers and clinicians in NHS GGC came after handover to be disappointed by the ventilation systems of the new QEUH/RHC?

12. The witness running order for this hearing is attached.

13. The evidence of the following witnesses will be by statement only:

Susan Logan, Ecoteric, BREEAM

John Bushfield, Wallace Whittle

Alex McIntyre, Director Estates, NHSGGC

William Hunter, Estates Manager, NHSGGC

Andrew Percival, ZBP

Capita as a corporate witness

Neil Murphy, Architect, IBI

Douglas Ross

14. The hearing will make use of all hearing bundles used at the Glasgow III hearing along with the following additional hearing bundles:

Bundle 28 - Bundle of documents in respect of Impact and Infection Risk of QEUH and RHC site choice - by Allan Bennett, Member of the Expert Group

Bundle 29 - NHS Greater Glasgow and Clyde Audit Reports

Bundle 30 - Acute Services Review Papers

Bundle 31 - Project Management Group

Bundle 32 - Early Warning (EW) Trackers

Bundle 33 - NEC3 Supervisor's Reports and Project Supervisors Interface Action Notes

Bundle 34 - Performance Review Group and Quality and Performance Committee Minutes and Relevant Papers

Bundle 35 - Supplementary Minutes of the Acute Infection Control Committee (AICC) and the Board Infection Control Committee (BICC)

Bundle 36 - Acute Services Committee Minutes and Relevant Papers

Bundle 37 - Board Minutes and Relevant Papers

Bundle 38 - Clinical and Care Governance Committee Minutes and Relevant Papers

Bundle 39 - Impact and Infection Risk of QEUH and RHC site choice by Allan Bennett

Bundle 40 - Miscellaneous Minutes from Design and Construction Phase

Bundle 41 - Monthly Progress Reports

Bundle 42 - Volume 1 - Previously omitted meeting minutes - AICCBICC minutes and papers

Bundle 42 - Volume 2 - Previously omitted miscellaneous meeting minutes and papers

Bundle 42 - Volume 3 - Joint Project Team Meeting Notes and Minutes

Bundle 42 - Volume 4 - Previously Omitted Board Minutes and Relevant Papers (2009-2020)

Bundle 42 - Volume 5 - Previously Omitted Board Minutes and Relevant Papers (2021-2024)

Bundle 43 - Volume 1 - Procurement, Contract, Design and Construction, Miscellaneous Documents

Bundle 43 - Volume 2 - Procurement, Contract, Design and Construction, Miscellaneous Documents

Bundle 43 - Volume 3 - Procurement, Contract, Design and Construction, Miscellaneous Documents

Bundle 43 - Volume 4 - Procurement, Contract, Design and Construction, Miscellaneous Documents

Bundle 43 - Volume 5 - Procurement, Contract, Design and Construction, Miscellaneous Documents

Bundle 44 - Volume 1 - NHS GGC Expert (HAD) Report

Bundle 45 - NHS Greater Glasgow and Clyde Corporate Risk Register

Bundle 46 - Volume 1 - Correspondence on Potentially Deficient Features

Bundle 46 - Volume 2 - Correspondence on Potentially Deficient Features

Bundle 47 - Volume 1 - Ward 4B - Drawings and Room Data Sheets

Bundle 47 - Volume 2 - Ward 4C - Drawings and Room Data Sheets

Bundle 47 - Volume 3 - Ward 2A - Drawings and Room Data Sheets

Further bundles may appear over the next few days before the start of the hearing.

Fred Mackintosh KC

Craig Connal KC